



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Technical Amendment to Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: In September 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately \$200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. In June 2019, the U.S. Trade Representative initiated a product exclusion process and then published several notices of exclusions. This notice makes a technical amendment to the exclusions that apply to certain products of China covered by the September 2018 action that were exported from China before May 10, 2019, and entered the United States after May 10, 2019, and before June 15, 2019.

DATES: This technical amendment covers goods exported from China before May 10, 2019, that entered the United States after May 10, 2019, and before June 15, 2019.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler at (202) 395-5725. For specific questions on customs classification or implementation of product exclusions, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

For background on the proceedings in this investigation, please see prior notices including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198

(December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), 84 FR 61674 (November 13, 2019), 84 FR 65882 (November 29, 2019), 84 FR 69012 (December 17, 2019), 85 FR 549 (January 6, 2020), 85 FR 6674 (February 5, 2020), 85 FR 9921 (February 20, 2020), 85 FR 15015 (March 16, 2020), 85 FR 17158 (March 26, 2020), 85 FR 23122 (April 24, 2020), 85 FR 27489 (May 8, 2020), and 85 FR 32094 (May 28, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent *ad valorem* duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$200 billion. *See* 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent, with an effective date of May 10, 2019. *See* 84 FR 20459.

To account for customs enforcement factors and the average transit time between China and the United States by sea, an implementing notice published on May 15, 2019, provided that products of China covered by the September 2018 action that were exported before May 10, 2019, were not subject to the additional duty of 25 percent, as long as the products entered into the United States prior to June 1, 2019. *See* 84 FR 21892. This subsequently was amended to extend the June 1, 2019 date to June 15, 2019. *See* 84 FR 26930. To distinguish the covered products of China subject to the 10 percent rate of additional duty from those subject to the 25 percent rate, a new heading in Chapter 99 of the HTSUS (9903.88.09) was created to cover products from China exported before May 10, 2019, and entered into the United States on or after May 10, 2019, and before June 15, 2019. *See* 84 FR 21892, as modified by 84 FR 26930.

On June 24, 2019, the U.S. Trade Representative established a process by which stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the \$200 billion action from the additional duties. *See* 84 FR 29576. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September, October, November and December 2019, and January, February, March, April and May 2020. *See* 84 FR 49591; 84 FR 57803; 84 FR 61674; 84 FR 65882; 84 FR 69012; 85 FR 549; 85 FR 6674; 85 FR 9921; 85 FR 15015; 85 FR 17158; 85 FR 23122; 85 FR 27489; and 85 FR 32094.

Published exclusions under the \$200 billion action were to apply as of September 24, 2018, the effective date of the \$200 billion action, and extend to August 7, 2020. However, the implementing language used in the exclusions notices did not include a reference to HTSUS heading 9903.88.09 and therefore did not have the effect of excluding products that were exported before May 10, 2019, and entered into the United States on or after May 10, 2019, and before June 15, 2019. The annex to this notice makes a technical correction to the exclusions granted under the \$200 billion action to include HTSUS heading 9903.88.09. Like all exclusions under this Section 301 investigation, this technical correction applies to entries of goods that are not liquidated or to entries that are liquidated but not final.

ANNEX

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption under Harmonized Tariff Schedule of the United States (HTSUS) heading 9903.88.09, note 20(l) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by inserting the following sentence after the first paragraph:

“The product exclusions provided by headings 9903.88.13, 9903.88.18, 9903.88.33, 9903.88.34, 9903.88.35, 9903.88.36, 9903.88.37, 9903.88.38, 9903.88.40, 9903.88.41, 9903.88.43, 9903.88.45, 9903.88.46 and 9903.88.48 shall apply to articles the product of China that were entered under heading 9903.88.09 and that are provided for in this subdivision.”

Greta Peisch,

General Counsel,

Office of the United States Trade Representative.

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